

UNITED STATES DISTRICT COURT
for the
Southern District of Ohio

United States of America
v.

HARVEY T. CULBRETH

Case No. 3:21MJ332

Defendant(s)

CRIMINAL COMPLAINT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 30, 2021 in the county of Montgomery in the
Southern District of Ohio, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. §§ 922(g)(1) and 924(a)
(2)

Possession of a Firearm by a Prohibited Person

This criminal complaint is based on these facts:

See Attached Affidavit.

☒ Continued on the attached sheet.

Matthew Heiser

Complainant's signature

TFO Matthew Heiser, ATF

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
Telephone (specify reliable electronic means).

Date: 9/1/21

City and state: _____

Judge

Hon. Sharon L. Ovington, U.S. Magistrate Judge

Printed name and title



AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Task Force Officer (TFO) Matthew Heiser (“Affiant”), being duly sworn, depose and state the following:

I have been employed by the City of Dayton Police Department for 19 years. I have been sworn as a task force officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) since May of 2020. As such, I have been sworn under 21 U.S.C. § 878, to serve as an officer of the United States duly empowered to conduct federal criminal investigations and execute arrests for criminal violations of Titles 18 and 21 of the United States Code. I am a member of the Violent Offender Crime Task Force that investigates criminal organizations in the Southern District of Ohio. I have been involved in numerous investigations of federal firearms and narcotics violations. These investigations have resulted in the arrest and conviction of criminal defendants.

1. This affidavit is submitted in support of a criminal complaint, which seeks the issuance of a federal arrest warrant against **HARVEY T. CULBRETH** (hereinafter referred to “**CULBRETH**”) for Being a Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).
2. 18 U.S.C. § 922(g)(1) prohibits any person who has previously been convicted of a felony offense—*i.e.*, an offense punishable by imprisonment for a term exceeding one year—from possessing any firearm or ammunition in and affecting interstate commerce
3. I make this affidavit from personal knowledge based on my participation in this investigation, including witness interviews and reports by myself and/or other law enforcement agents, communications with others who have personal knowledge of the events and circumstances described herein, and information gained through my training and experience. The information outlined below is provided for the limited purpose of establishing probable cause and does not contain all details or all facts of which I am aware relating to this investigation.
4. On or about August 30, 2021, at approximately 7:07 PM, **CULBRETH** was involved in a traffic stop at 1829 Germantown Street, Dayton, Ohio, which is within the Southern District of Ohio. 1829 Germantown Street is the business address for Save Foods.
5. Officer Riley Brown and Officer John Rice initiated a traffic stop on a 2014 Dodge Durango bearing license plate number GPK4941 for excessive window tint. The two days prior to this incident, Officers Brown and Rice observed the same vehicle parked in front of the business and observed, what they believed through their training and experience, to be hand to hand transactions from the occupants in the vehicle and persons outside the vehicle. Officers indicated that they never observed the occupants enter the store on the instant date or the two previous days of observation.

6. Officer Brown stepped out of the cruiser and approached the Durango. The driver of the vehicle, later identified as Demario Griffith, immediately lunged forward after realizing the police were approaching the vehicle. Officer Brown observed Mr. Griffith reach toward the lower portion of the driver-side door with his left arm. Officer Brown requested Mr. Griffith keep his hands where officers could see them. While speaking with Mr. Griffith, Officer Brown observed a clear plastic baggie containing suspected marijuana sitting on the center console of the vehicle. Officer Brown requested Mr. Griffith to step out of the vehicle and Officer Rice requested the front seat passenger, later identified as Elester Robinson, to step out of the vehicle as well.
7. Officer Rice observed two small plastic bags of marijuana near the cup holders of the center console. Officers conducted pat downs of Mr. Griffith and Mr. Robinson due to furtive movements upon approaching the vehicle, the marijuana observed in the vehicle, the observation of suspected narcotics sales, and the likelihood that the occupants would be armed and dangerous. During the pat down of Mr. Robinson's right leg, Officer Rice felt what he suspected to be a firearm in the right pocket of Mr. Robinson's shorts. Officer Rice recognized it to be a firearm due to the contour, mass and shape of the firearms grip and slide. Officer Rice placed Mr. Robinson in handcuffs.
8. During this time, Officer Rice observed the silhouette of another male in the backseat of the Dodge Durango. Officer Rice heard the driver-side passenger door open and observed a male, later identified as **CULBRETH**, flee from the vehicle. Officer Rice observed the clothing **CULBRETH** was wearing and shouted to Officer Brown that **CULBRETH** was running. Officer Rice observed **CULBRETH** had black bag around his shoulders. Officer Rice detained Mr. Robinson in the rear of the police car. Officer Brown chased after **CULBRETH**.
9. Officer Brown observed **CULBRETH** running toward the Desoto Bass Apartment Complex. **CULBRETH** ran between 1752 and 1754 Germantown Street. Officer Brown ran parallel to **CULBRETH**, keeping him in sight. Officer Brown observed **CULBRETH** run into 1729 Banker Place. Officer Brown was able to follow **CULBRETH** and was informed by the resident that **CULBRETH** ran out the back of the apartment. Officer Brown observed **CULBRETH** attempt to hide himself in the bushes at 1731 Banker Place. **CULBRETH** was ordered to keep his hands in the air and to get on the ground. He did not comply. Officer Brown was able to grab **CULBRETH** and place him on the sidewalk. Officer Brown observed an extended magazine in **CULBRETH**'s right front pocket. **CULBRETH** was still actively resisting and was concealing his hands under his body. Officer Brown feared **CULBRETH** was reaching for a firearm and used his city issued Taser to drive-stun **CULBRETH** until he complied with lawful orders. **CULBRETH** was placed in handcuffs.
10. Officer Florijan Urekar arrived and assisted in escorting **CULBRETH** back to Officer Brown's police car. **CULBRETH** was searched incident to arrest. In **CULBRETH**'s front pocket, Officers retrieved an extended magazine which was loaded with 19 rounds of 9mm ammunition. Officers also recovered a black Nike fanny pack that was lying on

the ground near **CULBRETH**'s right shoulder. Inside the fanny pack officers located a Taurus Millennium firearm, serial number TKZ30634.

11. The fanny pack also contained several bags of suspected heroin, which weighed approximately 22.03 grams, and crushed powder which weighed approximately 8.21 grams. The Taurus firearm was listed as stolen out of Dayton. As Officer Urekar rolled **CULBRETH** onto his side to assist him off the ground, **CULBRETH** spit in Officer Urekar's face. **CULBRETH** was arrested for the instant offense and for an active Ohio Department of Rehabilitation and Correction Adult Parole Authority violator at large warrant. He was transported to the Montgomery County Jail.
12. I have reviewed conviction documents from the Montgomery County, Ohio, Clerk of Courts indicating that **CULBRETH** has been previously convicted of the following felony offenses, each of which was punishable by a term of imprisonment exceeding one year, namely:
13. On or about January 20, 2010, in the Montgomery County, Ohio Court of Common Please, case number 2009 CR 02301, of two counts of Aggravated Robbery in violation of Ohio Revised Code 2911.01(A)(1).
14. Special Agent ("SA") Christopher Reed, ATF, who specializes in identifying firearms and their origin/place of manufacture, advised that this Taurus firearm is not manufactured in Ohio, and as such, the Taurus firearm that **CULBRETH** possessed, moved in interstate commerce.
15. Based on the above information, your Affiant believes that probable cause exists to conclude that on August 30, 2021, **CULBRETH**, while in the Southern District of Ohio: was a Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Matthew Heiser

Matthew Heiser, Task Force Office
ATF

Subscribed and sworn to before me this 1st day of September 2021.


Sharon L. Ovington
United States Magistrate Judge

